



# HOUSE BILL 27: Escheat Savings Bond Trust Fund/Scholarships

2013-2014 General Assembly

**Committee:** House Finance  
**Introduced by:** Reps. Howard, Hager, Torbett  
**Analysis of:** Fourth Edition

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**SUMMARY:** *The Senate committee substitute for House Bill 27 replaces the contents of the original bill. The PCS would enable the Treasurer to institute a judicial proceeding to claim title and ownership of unclaimed US savings bonds so that the Treasurer may redeem the bonds and credit the funds received into the Escheat Fund.*

*The bill is back in the House for concurrence.*

**CURRENT LAW:** Article IX, Sec. 10 of the North Carolina Constitution provides that property from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons may only be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

The North Carolina Unclaimed Property Act applies to money or tangible personal property that is held in a safe deposit box or other safekeeping depository held by a financial institution in this State and to a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business or by a governmental entity. U.S. savings bonds and notes are examples of the type of property to which the Unclaimed Property Act applies.

The Unclaimed Property Act creates statutory presumptions as to when property is unclaimed and presumed abandoned. Property that is presumed to be abandoned becomes subject to the custody of the State of North Carolina. A holder of unclaimed and presumed abandoned property must make a good faith effort to locate the apparent owner of the property. The holder of unclaimed and presumed abandoned property must make an annual report to the Treasurer concerning the property and, upon filing the report, release the property to the Treasurer. Upon payment or delivery of property to the Treasurer, the State assumes custody and responsibility for the safekeeping of the property. The Treasurer must send a list each year to the clerks of courts for each county of the escheated property received by the Treasurer during the preceding reporting period. There is no statute of limitations on a person's ability to make a claim for escheated property.

All escheated property must be paid into the Escheat Fund. If the property is other than money, the Treasurer may sell the property to the highest bidder within three years after the receipt of the property.<sup>1</sup> The Treasurer invests the monies in the Fund pursuant to the investment authority given under G.S. 147-69.2(b)(12). The income derived from the investment earnings of the Escheat Fund inures to the benefit of the Fund and is annually distributed to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

<sup>1</sup> A person who successfully makes a claim for property held in the Escheat Fund is entitled to receive any income or gain realized or accruing on the property at or before its liquidation or conversion of the property into money.



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The Escheats Fund must maintain a reserve of at least \$5,000,000 or a sum equal to the total value of escheated or abandoned property received in the preceding fiscal year, whichever is greater. The purpose of the reserve is for the payment of refunds of escheated or abandoned property to persons entitled to the property. If at any time the amount of the refund reserve is insufficient to make refunds required to be made, the Treasurer may use all current receipts derived from escheated or abandoned property, exclusive of the investment earnings from those funds. If those funds are inadequate, the Treasurer may apply to the Council of State for a no interest loan from the Contingency and Emergency Fund.

**BILL ANALYSIS:** Since the United States began issuing savings bonds after the First World War, many bonds have gone unclaimed for years after they have matured. The Treasurer has in its possession, under the North Carolina Unclaimed Property Act, approximately \$450,000 of unclaimed and presumed abandoned U.S. savings bonds. Under current law, the Treasurer may not acquire the proceeds of these savings bonds by redeeming them because the U.S. Treasury requires a state to have full title to and ownership of the bonds. The custody-based nature of North Carolina's unclaimed property law is not enough. The U.S. Treasury will recognize a court order declaring a state the legal title and owner of unclaimed, matured bonds by escheat.

The Senate PCS for House Bill 27 provides that all abandoned U.S. savings bonds will escheat to the State of North Carolina three years after they have matured. It creates a judicial process whereby the Treasurer may obtain a court-order that an unclaimed and presumed abandoned U.S. savings bond has escheated to the State and that all property rights and legal title to and ownership of the savings bond or proceeds from the bonds vest solely in the State of North Carolina. To obtain this court order, a court must find that no one has filed a claim or substantiated a claim for the savings bond and that the Treasurer has substantially complied with the laws of this State to locate the apparent owner of the bond. The Treasurer may not bring an action in court for a savings bond until the savings bond has been in the possession of the Treasurer for at least 365 days and the Treasurer has made sufficient efforts to locate the owner of the savings bond.

The PCS also creates the Escheat Savings Bond Trust Fund as a separately accounted fund within the Escheat Fund. The proceeds from U.S. savings bonds must be credited to this fund. The interest and investment earnings on the fund may only be used to provide scholarships to worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

**EFFECTIVE DATE:** This act is effective when it becomes law.

**BACKGROUND:** The federal government does not have an active program to reunite the owners of abandoned U.S. savings bonds with those bonds. Most of the U.S. savings bonds the Treasurer has in its possession came from bonds found in abandoned safe deposit boxes. These are known as "bonds in possession". In addition to the bonds that states have in their possession under the escheat laws, there are "absent bonds". The vast majority of unclaimed bonds are from absent bonds. The main obstacle to states' ability to redeem absent bonds is that only the U.S. Treasury has access to the registration records and those records are inefficiently contained on millions of rolls of microfiche. It is my understanding that multiple FOIA requests for these records have been denied. Currently, the state of Kansas has filed suit against the United States in the Court of Federal Claims to redeem the absent bonds registered to last known addresses in the State of Kansas. If this legislation is enacted, the Treasurer may choose to become a party to this legal action. The amount of absent bonds that could possibly be redeemed by North Carolina is very uncertain. The total amount of unredeemed savings bonds held by the U.S. Treasury, in both categories of "bonds in possession" and "absent bonds", is approximately \$16.5 billion.